



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

**Community Outreach, Safety and Healthcare
Administration Committee**

Wednesday, August 17, 2005

2:00 PM

Commission Chamber

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Commission Auditor

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**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

Legislative Analysis

**Community Outreach, Safety & Healthcare Administration Committee
Meeting Agenda
August 17, 2005**

Written analyses for the below listed items are attached for your consideration in this Legislative Analysis.

Item Number(s)

2F	3R
2G	

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

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LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

2(F) ORDINANCE PERTAINING TO CHAPTER 21 OF THE CODE; CREATING ARTICLE XVII WITH REGARD TO SEXUAL OFFENDERS AND SEXUAL PREDATORS.

Commissioners Jose "Pepe" Diaz, Bruno A. Barreiro and Rebeca Sosa

2(G) ORDINANCE PERTAINING TO CHAPTER 21 OF THE CODE; CREATING ARTICLE XVII WITH REGARD TO SEXUAL OFFENDERS AND SEXUAL PREDATORS.

Chairman Joe A. Martinez, Commissioner Carlos A. Gimenez
and Senator Javier D. Souto

I. SUMMARY

These two ordinances propose to create an article in the County Code that would:

- Prohibit convicted sexual predators and sexual offenders from residing within 2,500 feet of a public or private school, school bus stop, child care facility or park.
- Prohibit sexual predators from using a public park when a child under the age of 16 is on said park.
- Prohibit landlords from renting or leasing to a sexual offender or sexual predator any residential property located within 2,500 feet of a school, school bus stop, child care facility or park.
- Require landlords to get written confirmation that the prospective tenant is not a sexual predator or sexual offender.
- Sets various penalties and fines for sexual predators, sexual offenders, and landlords who fail to abide by the code.
- **Item 2(F)** would apply these prohibitions to municipalities and unincorporated portions of Miami-Dade County.
- **Item 2(G)** would only apply to unincorporated Miami-Dade County.

II. PRESENT SITUATION

Currently, Sections 794.065, 947.1405 and 948.30, Florida Statutes, prohibit sexual offenders and sexual predators from living within 1,000 feet of certain locations. Sexual predators are required by state law to register with the Florida Department of Law Enforcement and provide information such as name, social security number, age, race, sex, date of birth, and photograph. State law also requires community and public notification of the presence of a sexual predator or sexual offender in a neighborhood.

In Miami-Dade County, a growing number of municipalities have adopted increasingly restrictive sexual predator ordinances that limit where sexual predators and sexual offenders can live. Outside of existing state law, no uniform sexual predator residency ordinance exists which applies to both unincorporated Miami-Dade County and municipalities located in the county.

III. POLICY CHANGE AND IMPLICATION

These ordinances would:

- Prohibit convicted sexual predators and sexual offenders from residing within 2,500 feet of a public or private school, school bus stop, child care facility or park. **Penalty:** A fine of \$1,000 or up to 364 days in County jail or both.
- Prohibit sexual predators from using a public park when a child under the age of 16 is on said park. **Penalty:** A fine of \$1,000 or up to 364 days in County jail or both.
- Prohibit landlords from renting or leasing to a sexual offender or sexual predator any residential property located within 2,500 feet of a school, school bus stop, child care facility or park. **Penalty:** \$500 or up to 60 days in County jail or both.
- Require landlords get written notification that the prospective tenant is not a sexual predator or sexual offender. **Penalty:** \$500 or up to 60 days in County jail or both.
- **Item 2(F)** would apply these prohibitions to municipalities and unincorporated portions of Miami-Dade County.
- **Item 2(G)** would only apply to unincorporated Miami-Dade County.

Neither ordinance would apply to sexual offenders or sexual predators who established residence in a potentially restricted area prior to November 1, 2005; or if the offender was a minor when the sexual offense was committed and was not tried as an adult; or if the school, bus stop, day care or park were opened after the sexual predator established residence.

The requirement that a landlord perform a background check on potential tenants could increase the number of such requests to law enforcement agencies, including but not limited to FDLE and the Miami-Dade Police Department. It is not clear if this will place a burden on the staffs of these agencies.

IV. ECONOMIC IMPACT

Both ordinances require that signs be posted at all parks alerting visitors to the prohibition of sexual offenders and sexual predators to the park while minors are present. This may have a slight financial impact; however, a cost estimate from the Parks Department was not available at the time of this printing.

V. COMMENTS AND QUESTIONS

Questions and Answers regarding the Florida Sexual Predators Act, and local ordinances restricting the residency of sexual offenders

Does the residency restriction violate the offender's right of freedom to travel?

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No, the residency restriction does not restrict interstate or intrastate travel. It does restrict the access of an offender from places where children congregate, in order to reduce the risk to minors.

Does the residency restriction violate the rights of offenders who were not convicted of sex crimes on minors?

No, the residency restriction can include all sexual offenders in a classification. It is reasonable for a Commission to believe that a residency restriction based on a broad classification of sexual offenses will protect the public better than a residency restriction based on a more narrow classification of sexual offenses.

Does the residency restriction constitute another form of punishment?

No, the residency restriction is civil in nature, with the intent to protect the public by reducing the opportunity for offenders to have access to children. The Commission has the power to enact a regulatory measure with the intention to protect the public, even if the effect is punitive.

Does the residency restriction constitute a form of banishment?

No, offenders can still travel through the restricted residential areas, and can utilize the parks when no minors are present. However, most parks will likely have minors present, especially large parks and on weekends, thereby making parks generally off-limits, unless the offender is accompanied by his or her own child.

Concerns regarding the residential restriction for sex offenders

The ordinance creates a concentration of offenders in residential areas outside the restricted areas.

State law establishes a 1,000 foot residence restriction for certain offenders. From a single point, a 2,500 foot residence restriction produces an area that is over eight times larger than a 1,000 foot residence restriction. It is unknown if the courts will set a limit on the residence restriction, especially if the restriction effectively removes all residences in a municipality from availability to offenders. For example, the effect of Miami Beach's recent ordinance prohibits an offender from living anywhere in the city.

By excluding offenders from certain residential areas in the county, the concentration of offenders will increase in the unrestricted areas of the county (if the offenders should chose to continue to reside in the county). The residents of those unrestricted areas may not desire to host additional offenders who cannot live in the restricted areas of the county. The residents may desire their own residential restrictions, further decreasing available areas for sexual offender residency, which further increases the concentration in the remaining unrestricted areas.

The ordinance places a burden on landlords.

The ordinance prohibits a landlord from knowingly renting a residence to a sex offender inside the restricted area. This would apply to all landlords, including those home owners who rent the small apartments attached to their single family homes. Landlords must

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check with the School Board for addresses of all nearby schools and designated school bus stops, to measure the appropriate distances, and to update this information periodically as bus stops change and new schools are opened. In addition, landlords may not know the locations of all the child care facilities in their area, which may open and close without much public notice.

The ordinance requires landlords to obtain written confirmation from a law enforcement agency "that the prospective renter or lessee is not a registered sex offender or sexual predator." However, Miami-Dade County's "My Neighborhood" website states that "positive identification of a person believed to be a sexual predator or sex offender cannot be established unless a fingerprint comparison is made." It is unknown how long each agency would take to respond to a request from a landlord (if the agency responds at all), or how much each agency would charge for the service. A response time of days or weeks places an economic loss on the renting of a residential unit.

LEGISLATIVE ANALYSIS

RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT AT FRANKIE SHANNON ROLLE NEIGHBORHOOD SERVICE CENTER, 3750 SOUTH DIXIE HIGHWAY, MIAMI, WITH STATE OF FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES FOR PREMISES TO BE UTILIZED AS ADMINISTRATIVE OFFICES; AND AUTHORIZING THE COUNTY MANAGER TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

General Services Administration Department

I. SUMMARY

This Resolution would approve a lease agreement for the continued utilization by the Florida Department of Children and Families of the Frankie Shannon Rolle Neighborhood Service Center located at 3750 South Dixie Highway.

II. PRESENT SITUATION

For the utilization of 7,627 square feet of office space, the Department of Human Services (DHS) is charged an annual rent of \$148,421 (\$19.46 per square foot). Since 1979, the Florida Department of Children and Families has provided community services at this location.

III. POLICY CHANGE AND IMPLICATION

The lease extends the terms of the lease agreement for an additional three years commencing on November 1, 2005 to October 31, 2008. The following is a breakdown of the terms of the agreement:

Lease Term	Amount	\$ per sq. ft.	% Increase
1 st Year	\$148,421	\$19.41	0%
2 nd Year	\$157,268	\$20.62	6%
3 rd Year	\$169,777	\$22.26	7%

IV. ECONOMIC IMPACT

A minimum annual increase compared to the present lease.

V. COMMENTS AND QUESTIONS

None.